

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,
Plaintiff,
v.
DIANE TEDESCO,
Defendant.

2:10-CR-509 JCM (RJJ)

ORDER

Presently before the court is defendant Diane Tedesco's motion requesting transcripts at government expense. (Doc. #12). Defendant seeks transcripts to prepare a 28 U.S.C. § 2255 motion to vacate sentence. (Doc. #12). The government has not responded.

Pursuant to 28 U.S.C. § 753(f), the court may grant a motion requesting transcripts at government expense if the court certifies that the suit or appeal is not frivolous. *See also Henderson v. United States*, 734 F.2d 483 (9th Cir. 1984) (stating that the court must find that the appeal is not frivolous and presents a substantial issue before granting a motion for transcripts).

The court denies defendant's motion for transcripts because defendant has not demonstrated that a future § 2255 motion would not be frivolous. Judgement was entered against defendant on February 9, 2011. (Doc. #10). Defendant did not appeal her conviction. Further, more than one year has passed since the entry of final judgment, and defendant still has not filed a § 2255 motion to vacate sentence.

1 Pursuant to 28 U.S.C. § 2255(f), a defendant must file a § 2255 motion within one year of
2 the date on which the judgment of conviction becomes final. Here, defendant has failed to file a §
3 2255 motion within one year of the date her conviction became final, and defendant appears to be
4 time-barred from pursuing § 2255 relief. Therefore, the court cannot find that defendant's suit or
5 appeal is not frivolous and presents a substantial issue. *See Henderson*, 734 F.2d 483.

6 Accordingly,

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the defendant's motion
8 requesting transcripts at government expense (doc. #12) be, and the same hereby is, DENIED.

9 DATED June 4, 2012.

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12 **UNITED STATES DISTRICT JUDGE**
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